IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WP No. 16757 of 2006

Between :

M/s. Devi Prabha Enterprises .. Petitioner

And

The Addl Commissioner (CT), Legal, A.P., Hyderabad and Another .. Respondents

Dated : 11th September, 2006

JUDGMENT : (per JC,J)

The petitioner is a proprietory concern, a dealer in Audio cassettes registered on the rolls of the 2nd respondent under APGST Act and now on AP VAT Act for the assessment year 1999-2000. The petitioner's liability for tax under the APGST Act came to be assessed by the 2nd respondent by his proceedings dated 27.1.2001. However, the 2nd respondent chose to revise the assessment order on the premise that the audio cassettes are taxable under Item 10 of the First Schedule of the APGST Act. The petitioner has filed his objections which were overruled and by order dated 26.10.2002, the 2nd respondent revised the assessment. Aggrieved by the same, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner, who in turn dismissed the appeal on 25.4.2003. The petitioner carried the matter further in appeal

before the Sales Tax Appellate Tribunal on 6.9.2003. During the course of pendency of appeal, the petitioner preferred stay application before the 1st respondent seeking stay of the collection of the disputed tax of Rs.1,08,672/- which application was rejected by proceedings dated 27.11.2004. Hence the present writ petition with the prayer as follows :

> " For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order declaring the action of the 1st respondent in rejecting the stay application by proceedings dated 27.11.2004 in CCT Ref. No. LV(2)/2770/04, as arbitrary, contrary to law and also in view of the binding decision of the Hon'ble Sales Tax Appellate Tribunal reported in 37 APSTJ 211 and consequently grant stay of collection of disputed tax of Rs.1,08,672/- for the assessment year 1999-2000 pending disposal of the appeal before the Hon'ble Sales Tax Appellate Tribunal pursuant to the notice of the 2nd respondent dt. 26.7.06 and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard the learned Government Pleader.

In the circumstances, the writ petition can be disposed of at the admission stage directing the respondents not to take any coercive steps for the recovery of the tax due from the petitioner for the above mentioned assessment year on condition the petitioner deposits 50% of the disputed tax within a period of four weeks from today. The amount of tax if

any paid already in connection with the above mentioned assessment year shall be given credit to while computing the above mentioned amount of 50%. The writ petition is disposed of accordingly.

(J.CHELAMESWAR, J)

M.VENKATESWARA REDDY,J

11th September 2006.

Knk